IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

MFA.No. 1205 of 1999(A)

O.P.58/1997 OF SUB COURT, PAYYANNUR DTD. 09/06/1999.
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APPELLANT/PETITIONER:

M.P. UNNIKRISHNAN, S/O. K.R. PADMANABHAN,
THATTERI, ERAMAM AMSOM MATHAMANGALAM DESOM,
P.O. MATHAMANGALAM, KANNUR DT.

BY ADV. SRI.K.V.SOHAN.

RESPONDENT/RESPONDENT:

KOYADAN KIZHAKKEDATH RAMA,
D/O. M.M. NARAYANAN NAMBIAR,
MUYYAM, TALIPARAMBA TALUK,
P.O. VARUDAL, KANNUR DT.

BY ADV. SRI.D.KRISHNA PRASAD,
SRI.M.HARISHARMA,
SRI.T.P.ELDHOSE.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & V.GIRI, JJ.

M.F.A.No.1205 OF 1999

Dated 22nd August, 2007

JUDGMENT

Koshy,J.

This appeal is filed by the husband against the dismissal of the application filed under Section 13(1)(iii)(a) of the Hindu Marriage Act. It is his case that he married the respondent on 17.8.1996 as per customary rites. They lived together only for one week. The respondent behaved in an indifferent and wild manner. She was taking medicines regularly. Dr.O.K.Narayanan Kutty, Kannur informed the appellant that since the last six years the respondent is suffering from mental disorder and taking medicines. In any event, their marital relationship was not cordial through out. According to the respondent, demand of dowry was the reason for the absence of cordial relationship. The Family Court found that the appellant was not able to prove that there is mental disorder. After filing of the appeal, several times the case was posted for appearance of parties before this court as well as Adalath, but, respondent was absent. Learned counsel for the respondent submitted that even though registered letter was sent, there is no response from the respondent. In any event, we are of the view that for the last 12 years they were living separately and marriage is

irretrievably broken. If the marriage is irretrievably broken and both are not living together and not on talking terms for years together, there is a mutual cruelty and marriage can be dissolved under Section 13(1)(iii)(a) of the Hindu Marriage Act. Apex Court in ***Naveen Kohli*** v. ***Neelu Kohli*** (AIR 2006 SC 1675) held that if the marriage is irretrievably broken, there is no purpose in continuing the relationship and divorce can be granted.

Hence, this appeal is allowed and divorce is granted under Section 13(1)(iii)(a) of the Hindu Marriage Act.

J.B.KOSHY
JUDGE

V.GIRI
JUDGE

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